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U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
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SOUTHERN DISTRICT OF INDIANA
LAURA A. BRIGGS
CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
v.	)	Cause No. 1:13-cr-00150-WTL-TAB
	)	
GUOQING CAO,	)	-01
SHUYU LI,	)	-02
	)	
Defendants.	)	

SECOND SUPERSEDING INDICTMENT

The Grand Jury charges that:

BACKGROUND

At all times relevant to this Second Superseding Indictment:

Eli Lilly and Company

1. Eli Lilly and Company (Lilly) was founded in Indianapolis, Southern District of Indiana on May 10, 1876, and is one of the world's largest pharmaceutical companies with offices in Indianapolis, Indiana and the People's Republic of China. Lilly was established with specific commitments in mind: (a) manufacture pharmaceutical products of the highest possible quality, and (b) base Lilly medicines on the best science of the day. Lilly employs approximately 38,000 people worldwide including in excess of 10,000 individuals in Indiana. Lilly's research focuses on innovative discoveries to address unmet medical needs in five main global business areas: (1) bio-medicines including cardiovascular disease; (2) diabetes; (3)

oncology; (4) animal health; and (5) emerging markets. Lilly markets its products for patient use in 125 countries worldwide.

2. Through years of work, Lilly has engaged in proprietary research to identify intervention points where drugs can best affect the disease state. This drug discovery and development process begins with Lilly scientists searching for biological targets that play a role in a given disease and if successful, concludes with a drug approved for patient use. On average, the process takes ten to fifteen years and requires the examination of between 5,000 to 10,000 compounds to gain approval of a single drug for patient use. There are several steps in the process:

(1) establishing the disease state; (2) identifying the targets of interest: generating hypotheses regarding points of intervention and proposing pharmacological targets that may be relevant to the treatment; (3) validating the targets: performing experiments and developing tests that demonstrate the proposed target may be pharmacologically modified to influence a disease state; (4) identifying hits: testing selected molecules to identify hits; (5) hits to leads: designing and preparing future analysis (leads) based on the hits; (6) lead optimization: refining and evaluating the leads to determine margin of safety and identifying compounds of interest; (7) candidate selection: further refinement to identify a candidate molecule for clinical trials; and (8) clinical trials: identifying candidates that meet safety and efficacy criteria to advance to human clinical trials. The unauthorized disclosure of Lilly's strategic focus and research and development data at any stage of the drug discovery and development process impedes Lilly's ability to advance to commercialized medicines for patient use.

3. Lilly entrusted its employees with property vital to the company's ongoing

pursuit of drugs to be commercialized for patient use. This Lilly Property was proprietary business information including research and development data and analysis and scientific information, some of which was confidential, among other things ("Lilly Property"). Lilly employees entrusted with Lilly Property owed the company a fiduciary duty to act primarily for the benefit of the company, not act as or for the benefit of an adverse party without Lilly's consent, and report any known or suspected violations of company policy, among other things.

4. Lilly policy required employees to actively participate in recurrent training intended to protect Lilly Property and to prevent unauthorized use or disclosure at both its headquarter offices in Indianapolis, Indiana and its offices in the People's Republic of China. Lilly employees received regular instruction on their obligation to report violations of Lilly policy, among other things. For example, "scientific information" was defined by Lilly policy as information that: (a) relates to any aspect of Lilly-sponsored scientific research; (b) relates to or supports Lilly research interests; or (c) describes how Lilly conducts and manages its scientific processes and information. Lilly policy required documented approval before scientific information could be publically disclosed or shared, and provided that disclosure of scientific information was approved only in support of Lilly objectives and not for individual advancement. Lilly policy also prohibited use of Lilly computer systems to violate company policies, engage in fraudulent or deceitful activity or activity that would otherwise adversely affect the company or its people, or promote or engage in a personal business venture or other activity for personal gain or profit or the private gain or profit of others, among other things. These policies were enforced to maintain the integrity of years of research and development and Lilly's ability to advance to commercialized medicines for patient use.

The Defendants and The Accomplice

A. GUOQING CAO

5. Defendant GUOQING CAO was born in the People's Republic of China and was granted United States citizenship on January 24, 2002.

6. Beginning in or around June 1999 until on or about August 10, 2005 and again beginning on or about September 28, 2005 until on or about January 11, 2012, defendant GUOQING CAO was employed at Lilly as a senior biologist and a research advisor. In or around 2009, GUOQING CAO was assigned to lead early aspects of Lilly's efforts in diabetes and cardiovascular research at its offices in Indianapolis, Indiana.

7. In 2001, defendant GUOQING CAO was advised of and entered into a Lilly Confidentiality and Invention Agreement which outlined his obligations in handling Lilly information. Defendant GUOQING CAO was reminded of these obligations to the company repeatedly during his employment with Lilly. The agreement provided, in pertinent part:

> All ideas, inventions, discoveries, and improvements conceived or reduced to practice in the course of employment with Lilly are Lilly property. All employees shall help Lilly get and retain title to them.
>
> All written, graphic, or recorded materials prepared in connection with work for Lilly belong to Lilly. Employees shall use those materials only as instructed and . . .at the end of employment, all shall be returned, including copies, to Lilly.

8. In 2003 and each year thereafter beginning in 2005 through and including 2011, defendant GUOQING CAO completed Red Book training, among other training modules,

concerning Lilly Standards of Business Conduct policies and procedures, including, but not be limited to, the handling of Lilly information and inventions. This Lilly Red Book training: provided explicit direction regarding Lilly employees' ongoing obligation to protect the company's information assets, directed the use of company information exclusively for legitimate company business purposes, and required employees to avoid situations in which personal interests or relationships conflict or appear to conflict with company interests, among other things.

9. In 2010, defendant GUOQING CAO completed training concerning Lilly's Global Policy on External Communications. This External Communications policy applied to all employees who participated in any way in external communications and required company approval prior to public disclosure of scientific information generated by or on behalf of the company.

10. On or about August 18, 2011, defendant GUOQING CAO accepted employment with a Lilly competitor headquartered in the People's Republic of China and described in more detail below ("Chinese Drug Manufacturing Company A" or "Company A"). Approximately six (6) months later, having concealed his new employment with Company A from Lilly, GUOQING CAO formally resigned from Lilly.

B. INDIVIDUAL #1

11. Individual #1 was born in the People's Republic of China and was granted United States citizenship on September 25, 2003.

12. Beginning in or around March 23, 1998, until on or about July 11, 2008, Individual #1 was employed at Lilly as a senior chemist and research advisor. In or around

October 2005, Individual #1 was assigned to lead aspects of Lilly's efforts in the area of metabolic disorders including diabetes at its offices in Indianapolis, Indiana.

13. On May 22, 2001, Individual #1 was advised of and entered into a Lilly Confidentiality and Invention Agreement which outlined his obligations in handling confidential information, as set forth in paragraph 7, above.

14. In 2000 and 2001, Individual #1 completed training regarding the protection of Lilly confidential information and innovations, among other things. Beginning in 2003 and in several years to follow through and including 2007, Individual #1 completed Red Book training, among other training modules, concerning Lilly Standards of Business Conduct policies and procedures, including, but not limited to, the handling of Lilly information and inventions, as set forth in paragraph 8, above.

15. On or about July 11, 2008, Individual #1 resigned from Lilly. In approximately May 2010, Individual #1 accepted employment at Company A located in the People's Republic of China. Individual #1 began working for Company A approximately one and one-half years before defendant GUOQING CAO.

C. SHUYU LI

16. Defendant SHUYU LI was born in the People's Republic of China and was granted United States citizenship on October 8, 2009.

17. Beginning in or around August 19, 2002, until on or about May 21, 2013, defendant SHUYU LI was employed by Lilly, initially as a senior biologist. In approximately October 2007, defendant SHUYU LI was assigned to lead aspects of Lilly's cancer bioinformatics efforts where his company responsibilities included storing, retrieving,

organizing, and analyzing biological information on Lilly's behalf. Subsequently, on or about March 1, 2012, defendant SHUYU LI was reassigned to lead Lilly's information technology team in China, where his responsibilities included the protection of Lilly Property.

18. On or about August 19, 2002, defendant SHUYU LI was advised of and entered into a Lilly Confidentiality and Invention Agreement which outlined his obligations in handling confidential information, as set forth in paragraph 7, above.

19. In 2002, defendant SHUYU LI completed training regarding the protection of Lilly confidential information and innovation, among other things. Beginning in 2003, and in several years to follow until and including 2011, SHUYU LI completed Red Book training, among other training modules, concerning Lilly Standards of Business Conduct policies and procedures, as set forth in paragraph 8, above. In 2010 and 2011, respectively, defendant SHUYU LI completed training specific to: (a) external communications, as set forth in the Lilly Red Book, and (b) the disclosure of scientific information, among other things. Each policy emphasized Lilly's directive to obtain approval prior to public disclosure.

20. On or about May 21, 2013, defendant SHUYU LI's employment with Lilly ended and he relocated from the People's Republic of China back to the Southern District of Indiana.

Chinese Drug Manufacturing Company A

21. Company A was established in 1970 and is headquartered in the People's Republic of China. Company A's primary revenue stream has been the sale of generic drugs with a goal to transform more completely into an innovative pharmaceutical company competing in the global marketplace.

22. Company A advances its goals by streamlining its drug discovery process including the production of "me-too" or "me-better" drugs intended to resemble and mimic innovative pharmaceutical products developed and commercialized by others for sale.

23. Scientists engaged in research and development on Company A's behalf are, in some instances, financed by People's Republic of China governmental grant funding including, but not limited to, the Qian Ren Ji Hua, "Thousand Talents Recruitment Program." The Thousand Talents Recruitment Program adheres to the Chinese government's National Development Strategy to secure the services of talented strategic scientists working on the development of critical technologies, high-tech products, and innovation in an effort to advance and encourage China-owned technology. Selected participants in the Thousand Talents Recruitment Program could receive a tax-free bonus of approximately 1 million RMB, a unit of Chinese currency, together with multiple monetary subsidies.

COUNT ONE

(Wire Fraud and Aiding and Abetting)

[18 U.S.C. §§ 1343, 2]

24. The background allegations set forth in Paragraphs One through Twenty-Three are hereby realleged and incorporated by reference as if set forth in full herein.

25. On or about August 21, 2011, in the Southern District of Indiana, and elsewhere, the defendant,

GUOQING CAO,

having devised a scheme and artifice to defraud, and to obtain property by means of materially false pretenses, representations, promises, and omissions for purposes of executing and attempting to execute such scheme and artifice, transmitted and caused certain wire communications in the form of writings, signs, signals and sounds, to be transmitted in interstate and foreign commerce, specifically, an e-mail communication and attachment originating in the Southern District of Indiana to Individual # 1 located in the People's Republic of China.

The Scheme And Artifice To Defraud And To Obtain Property By Means Of False And Fraudulent Pretenses, Representations, Promises And Omissions

26. Defendant GUOQING CAO, and others known and unknown to the Grand Jury, knowingly and with the intent to defraud, devised the following scheme and artifice to defraud and to obtain property by means of materially false pretenses, representations, promises, and omissions ("the scheme and artifice"):

(a) to disclose Lilly Property without having sought or obtained Lilly's permission or authorization, thereby depriving Lilly of exclusive use of the Lilly Property, and

(b) to leverage and attempt to leverage the benefits of Lilly Property for monetary benefits that would be bestowed upon Individual #1 and Company A without having sought or obtained Lilly's permission or authorization.

Manner and Means of the Scheme and Artifice

Among the manner and means by which GUOQING CAO executed and attempted to execute the scheme and artifice were the following:

27. Individual #1, a former employee of Lilly, who, at the time of the events pertaining to Count One, was an employee of Company A, communicated electronically with defendant GUOQING CAO, who, during the majority of the time of the events pertaining to Count One, was a Lilly employee, about Lilly Property without having sought or obtained Lilly's permission or authorization.

28. During some of the electronic communications, defendant GUOQING CAO divulged Lilly Property without having sought or obtained Lilly's permission or authorization.

29. During some of the electronic communications, defendant GUOQING CAO divulged Lilly Property in an attempt to obtain funding for Individual #1 and Company A from the Chinese government sponsored grant, Qian Ren Ji Hua "Thousand Talents Recruitment Program," among others, without having sought or obtained Lilly's permission or authorization.

30. Defendant GUOQING CAO would take steps to conceal his electronic communications with Individual #1 and his work on behalf of Company A from Lilly causing Lilly to believe he was a loyal employee who should continue to be granted access to Lilly Property.

Specific Allegations

As a part of the Scheme and Artifice:

31. On or about February 22, 2010, defendant GUOQING CAO sent his resume electronically to Individual #1 for consideration as an employee of Company A, a pharmaceutical company headquartered in the People's Republic of China competing with Lilly in the global market.

32. On or about March 18, 2010, defendant GUOQING CAO sent an e-mail communication to an individual in which defendant CAO expressed dissatisfaction with his current employment with Lilly.

33. On or about April 7, 2010 and May 17, 2010, defendant GUOQING CAO sent an e-mail communication to Individual #1 discussing future travel plans to China and defendant CAO's desire to meet with Individual #1.

34. On or about May 18, 2010, Individual #1 sent an e-mail communication to defendant GUOQING CAO advising that defendant CAO would meet with a Company A official during his trip to China.

35. On or about May 18, 2010, defendant GUOQING CAO attached external storage devices to his Lilly computer located in Indianapolis, Indiana.

36. Between on or about May 27, 2010 and June 10, 2010, defendant GUOQING CAO traveled to China and met with Company A officials, among other things.

37. Between on or about June 11, 2010 and August 23, 2010, among other dates, defendant GUOQING CAO took steps to support the work of Company A, to-wit: defendant CAO actively recruited individuals to make presentations at an upcoming conference in China on behalf of Individual #1 and Company A. Defendant GUOQING CAO concealed this work on behalf of Company A from Lilly and in doing so, omitted material information in furtherance of his scheme and artifice to defraud Lilly.

38. On or about August 24, 2010, defendant GUOQING CAO sent an e-mail communication to Individual #1 discussing future travel plans to China.

39. Beginning on or about October 15, 2010, defendant GUOQING CAO began forwarding Lilly authored papers to his personal e-mail address.

40. On or about October 20, 2010, defendant GUOQING CAO participated in a refresher Lilly Red Book training course that specifically addressed the protection of Lilly Property and Lilly employees' affirmative duty to report policy violations. In spite of this training, defendant GUOQING CAO concealed from Lilly his work on behalf of Company A and his communications with individuals employed by Company A and in doing so, made false

and fraudulent representations and omitted material information in furtherance of his scheme and artifice to defraud Lilly.

41. On or about October 22, 2010, Individual #1 urged defendant GUOQING CAO to continue supporting the efforts of Company A, to-wit: recruiting scientists for networking purposes and collaborating in the submission of Chinese grant applications that would be submitted for funding to support Company A's research and development.

42. Between on or about November 2, 2010 and November 14, 2010, defendant GUOQING CAO traveled to China and met with Company A officials, among other things.

43. On or about January 28, 2011, defendant GUOQING CAO forwarded his Lilly contacts to his personal e-mail address.

44. On or about February 25, 2011, defendant GUOQING CAO attached an external storage device to his Lilly computer located in Indianapolis, Indiana.

45. On or about April 2, 2011, Individual #1 sent an e-mail to defendant GUOQING CAO, advising that Individual #1 had recommended defendant CAO to be a key member of a Chinese grant application that would be submitted by Company A for grant funding, and requesting that defendant CAO focus on cardiovascular disease and diabetes research on behalf of Company A. Defendant GUOQING CAO concealed this fact from Lilly and in doing so, omitted material information in furtherance of his scheme and artifice to defraud Lilly.

46. On or about April 7, 2011, Individual #1 sent an e-mail communication to defendant GUOQING CAO, advising defendant CAO that a job offer from Company A would be forthcoming.

47. On or about April 29, 2011, defendant GUOQING CAO received confirmation and an itinerary for his upcoming travel to China.

48. On or about May 16, 2011, defendant GUOQING CAO attached external storage devices to his Lilly computer located in Indianapolis, Indiana.

49. On or about May 26, 2011, defendant GUOQING CAO requested formal approval by Lilly to present on a specific topic at an upcoming conference in China. This request was subsequently denied.

50. Between on or about May 30, 2011 and June 10, 2011, defendant GUOQING CAO traveled to China and met with Company A officials, among other things.

51. In or around July 2011, defendant GUOQING CAO forwarded Lilly Property to his personal e-mail address.

52. On or about August 18, 2011, defendant GUOQING CAO sent an e-mail communication to Individual #1 accepting Company A's job offer and attaching an executed employment contract with Company A. Defendant GUOQING CAO concealed this fact from Lilly and in doing so, omitted material information in furtherance of his scheme and artifice to defraud Lilly.

53. On or about August 21, 2011, defendant GUOQING CAO sent an e-mail communication to Individual #1 that contained Lilly Property to be used in a Chinese grant application to obtain financial support for Company A's research and development efforts without having sought or obtained Lilly's permission or authorization. Defendant GUOQING CAO concealed this fact and his receipt of the Thousand Talents grant from Lilly and in doing so, omitted material information in furtherance of his scheme and artifice to defraud Lilly.

54. In or around August 2011, defendant GUOQING CAO and Individual #1 continued to communicate electronically about Company A's Chinese grant applications.

55. On or about August 28, 2011, defendant GUOQING CAO sent an e-mail communication to Individual #1 asking to limit the use of defendant CAO's name in connection with the information defendant CAO had provided. Individual #1 agreed.

56. In or around September 2011, defendant GUOQING CAO downloaded Lilly Property including "File 1", a Clinical Investigator Brochure created to advance Lilly's ability to commercialize medicines for patient use, to an external storage device attached to defendant CAO's Lilly computer located in Indianapolis, Indiana.

57. Between on or about September 22, 2011 and September 28, 2011, defendant GUOQING CAO traveled to China and met with Company A officials, among other things.

58. On or about October 27, 2011, defendant GUOQING CAO participated in a refresher Lilly Red Book training course that specifically addressed the protection of Lilly Property and Lilly employees' affirmative duty to report policy violations. In spite of this training, defendant GUOQING CAO continued to conceal his relationship with Company A and in doing so, made false and fraudulent representations and omitted material information in furtherance of his scheme and artifice to defraud Lilly.

59. On or about November 17, 2011, defendant GUOQING CAO sent an e-mail communication to Individual #1 that shared scientific know-how in support of research being conducted by Company A.

60. In or around December 2011, defendant GUOQING CAO downloaded Lilly Property, including, but not limited to "File 2", "File 3", "File 4", and "File 5", to an external storage device attached to defendant CAO's Lilly computer located in Indianapolis, Indiana:

ITEMS OBTAINED	DESCRIPTION
FILE TWO	Discovery Portfolio and Strategy Overview
FILE THREE	Candidate Selection and Initial Clinical Strategy A
FILE FOUR	Candidate Selection and Initial Clinical Strategy B
FILE FIVE	Target Review Presentation

61. On or about January 11, 2012, defendant GUOQING CAO resigned from employment at Lilly and he was reminded of his ongoing obligation of confidentiality to Lilly. Despite this reminder, defendant GUOQING CAO misrepresented that he had returned all Lilly Property and continued to conceal his previous communications with Individual #1 regarding Lilly Property and his work on behalf of Company A during his exit interview. In doing so, defendant GUOQING CAO made false and fraudulent representations and omitted material information in furtherance of his scheme and artifice to defraud Lilly.

62. On or about March 25, 2012, while employed by Company A, defendant GUOQING CAO sent an e-mail communication to Individual #1 that included Company A's Cardiovascular Disease Strategy. This Cardiovascular Disease Strategy identified Company A's plan to research and develop a molecule that defendant GUOQING CAO had worked on during his employment at Lilly, which information defendant GUOQING CAO had previously

disclosed to Individual #1 on August 21, 2011, without having sought or obtained Lilly's permission or authorization.

63. On or about November 3, 2012 and November 6, 2012, defendant GUOQING CAO forwarded e-mail communications to Individual #1 with Lilly Property attached. Defendant CAO also suggested to Individual #1 that more analysis was being conducted at Lilly by another Lilly employee on defendant GUOQING CAO's behalf.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT TWO

(Conspiracy to Commit Wire Fraud)

[18 U.S.C. §§ 1343, 1349]

64. The allegations set forth in Count One are hereby realleged and incorporated by reference as if set forth in full herein.

65. Between during in or about January 2012 and during in or about November 2012, in the Southern District of Indiana, and elsewhere, the defendants,

GUOQING CAO,
and
SHUYU LI,

together, and with others known and unknown to the Grand Jury, did knowingly and intentionally, conspire, combine, confederate, and agree, to commit the offense of wire fraud, that is: to execute and attempt to execute a scheme and artifice to defraud Eli Lilly & Company by means of materially false and fraudulent pretenses, representations, promises, and omissions and, in furtherance of such scheme and artifice, transmitted and caused to be transmitted, interstate and foreign wire communications in the form of writings, signs, and signals, in violation of Title 18, United States Code, Sections 1343 and 1349.

Object of the Conspiracy

66. The object of the conspiracy was for defendant GUOQING CAO to obtain the benefit of Lilly Property without making the same investment of time and money.

Manner and Means of the Conspiracy

Among the manner and means by which the defendants would and did carry out this conspiracy were the following:

67. It was part of the conspiracy that defendant GUOQING CAO, a former employee of Lilly, who, at the time of the events pertaining to Count Two, was an employee of Company A in the People's Republic of China, communicated electronically with defendant SHUYU LI, who, during the time and of the events pertaining to Count Two, was a Lilly employee in the People's Republic of China, about Lilly Property, without having sought or obtained Lilly's permission or authorization.

68. It was further part of the conspiracy that during some of the electronic communications, defendant SHUYU LI divulged Lilly Property to defendant GUOQING CAO without having sought or obtained Lilly's permission or authorization.

69. It was further part of the conspiracy that after receiving the Lilly Property from defendant SHUYU LI, defendant GUOQING CAO provided some of the Lilly Property to Individual #1.

70. It was further part of the conspiracy that defendant GUOQING CAO and defendant SHUYU LI would take steps to conceal the execution and attempts to execute the

scheme and artifice to defraud from Lilly causing Lilly to believe defendant SHUYU LI should continue to be granted access to Lilly Property.

Overt Acts

In furtherance of the conspiracy and to achieve its object, on or about the dates below, the defendants committed and caused to be committed, in the Southern District of Indiana, and elsewhere, at least one of the following overt acts, among others:

71. Between February 2012 and November 2012, defendant SHUYU LI communicated electronically with defendant GUOQING CAO about and conveyed Lilly Property without having sought or obtained Lilly's permission or authorization. Defendant SHUYU LI concealed this fact from Lilly and in doing so, omitted material information in furtherance of the conspiracy.

72. On or about February 21, 2012, defendant SHUYU LI sent an e-mail communication to defendant GUOQING CAO, which e-mail communication included an attachment of Lilly Property, without having first sought or obtained Lilly's permission or authorization. Defendant SHUYU LI concealed this fact from Lilly and in doing so, omitted material information in furtherance of the conspiracy.

73. On or about October 31, 2012, defendant SHUYU LI sent an e-mail communication to defendant GUOQING CAO that contained Lilly Property, without having sought or obtained Lilly's permission or authorization. Defendant SHUYU LI concealed this fact from Lilly and in doing so, omitted material information in furtherance of the conspiracy.

74. On or about November 3, 2012, defendant GUOQING CAO sent an e-mail communication to defendant SHUYU LI that contained a list of five research areas in which

defendant CAO was interested and defendant LI had access to or knowledge of through his employment at Lilly. On the same day, defendant GUOQING CAO forwarded the Lilly Property he received on October 31, 2012 to Individual #1.

75. On or about November 5, 2012, defendant SHUYI LI sent an e-mail communication to GUOQING CAO that contained Lilly Property, without having sought or obtained Lilly's permission or authorization. The following day, defendant GUOQING CAO attempted to forward the Lilly Property as an attachment to Individual #1. Defendant SHUYU LI concealed these facts from Lilly and in doing so, omitted material information in furtherance of the conspiracy.

76. On or about November 8, 2012, defendant SHUYU LI responded to defendant GUOQING CAO's list, referenced in paragraph 74, above, by e-mailing defendant CAO attachments that divulged Lilly Property without having sought or obtained Lilly's permission or authorization. Defendant SHUYU LI concealed this fact from Lilly and in doing so, omitted material information in furtherance of the conspiracy.

77. On or before May 21, 2013, defendant SHUYU LI attempted to conceal his communications with defendant GUOQING CAO by deleting files from his personal e-mail account.

78. On or about May 21, 2013, defendant SHUYU LI's employment with Lilly ended and he was reminded of his ongoing obligation of confidentiality to Lilly. Defendant LI continued to conceal his previous electronic communications with defendant GUOQING CAO regarding Lilly Property and in doing so, omitted material information in furtherance of the conspiracy.

All in violation of Title 18, United States Code, Sections 1343, 1349.

COUNT THREE

(Wire Fraud and Aiding and Abetting)

[18 U.S.C. §§ 1343, 2]

79. The allegations found in Paragraphs One through Seventy-Eight of this Second Superseding Indictment are realleged and incorporated by reference as if set forth in full herein.

The Scheme And Artifice To Defraud And To Obtain Property By Means Of False And Fraudulent Pretenses, Representations, Promises And Omissions

80. Defendant SHUYU LI, and others known and unknown to the Grand Jury, knowingly and with the intent to defraud, devised the following scheme and artifice to defraud and to obtain property by means of materially false pretenses, representations, promises, and omissions ("the scheme and artifice"):

(a) to disclose Lilly Property without having sought or obtained Lilly's permission or authorization, thereby depriving Lilly of exclusive use of the Lilly Property.

81. On or about November 8, 2012 in the Southern District of Indiana, the defendant,

SHUYU LI,

having devised a scheme and artifice to defraud Lilly by means of materially false pretenses, representations, promises, and omissions for purposes of executing and attempting to execute such scheme and artifice to defraud, transmitted and caused certain wire communications in the form of wirings, signs, signals and sounds, to be transmitted in interstate and foreign commerce, specifically, an e-mail communication containing Lilly Property originating in the Southern District of Indiana to an individual located in the People's Republic of China, in violation of Title 18, United States Code, Sections 1343 and 2.

FORFEITURE

1. Pursuant to Federal Rule of Criminal Procedure 32.2, the United States hereby gives the defendants notice that the United States will seek, either civilly and/or criminally, the forfeiture of property pursuant to Title 18, United States Code, Section 2323 and Title 28, United States Code, Section 2461(c), as part of any sentence imposed.

2. If convicted of the offenses set forth in this Second Superseding Indictment, the defendants shall forfeit to the United States:

a. any property used or intended to be used, in any manner or part to commit or facilitate the commission of the offenses set forth in this Second Superseding Indictment; and

b. any property constituting proceeds obtained directly or indirectly as a result of the commission of the offenses set forth in this Second Superseding Indictment; or

c. a sum of money equal to the total amount of money involved in the offenses set forth in this Second Superseding Indictment.

3. If any of the property described above in paragraph two, as a result of any act or omission of the defendants:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section

2461(c).

A TRUE BILL:

FOREPERSON [redacted]

JOSEPH H. HOGSETT
United States Attorney

By: Cynthia J. Ridgeway
CYNTHIA J. RIDGEWAY
Assistant United States Attorney